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PART V

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly and Bills published under rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA

LEGISLATIVE ASSEMBLY DEPARTMENT

The following Report of the Select Committee on the Bill to make better provision for the control of rents in certain areas in the Provinces of Delhi and Ajmer-Merwara, was presented to the Legislative Assembly on the 12th March, 1947:—

We, the undersigned, members of the Select Committee to which the Bill to make better provision for the control of rents in certain areas in the Provinces of Delhi and Ajmer-Merwara was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

The Long Title and Preamble have been amplified to indicate that the Bill provides not only for the control of rents but also for the control of evictions—*vide* clauses 9 and 10—and for the lease to Government of premises becoming vacant—*vide* clause 11.

Clause 1.—In order to provide as much incentive to private building as possible, we have suggested that the provisions of the Act should not apply to any premises the construction of which is completed after the commencement of the Act.

We feel that the housing situation may improve in some of the outlying areas earlier than in the more central areas, when it will be desirable to remove them from the operation of the Act. The further proviso added to sub-clause (3) will enable the Central Government to do so by a notification in the Gazette.

Clause 2.—The definitions of “landlord” and “tenant” as originally drafted were unnecessarily wide, and we have therefore suggested the omission of certain superfluous words.

A reference to *dharamshalas* has been inserted in the last line of the definition of “premises”. Although rooms in *dharamshalas* are normally intended to be occupied by travellers for short periods, there have been instances of occupants refusing to vacate the rooms and taking cover under the existing rent control laws, or which there is no justification.

The provisions for determining the standard rent of residential and non-residential premises contained in clauses 2 (c) and 4 (1), respectively, of the Bill as introduced in the Assembly have been the subject of acute controversy, particularly in Delhi. The landlords' contention is that the increase of one third and two-thirds, respectively, over the controlled rent of the war period is entirely inadequate, considering the enormous increase in the cost of living in general and of building materials in particular. On the other hand, the tenants have been equally vehement in their protests against any increase of the existing controlled rents. We have attempted to steer a middle course between these two extreme viewpoints. In the revised Second Schedule we have laid down provisions which seem to us to be equitable for determining the standard rent of all premises to which the Bill applies.

Since conditions in the Province of Ajmer-Merwara are appreciably different from those prevailing in the Province of Delhi, we have divided the Schedule into two Parts. In Part A, which applies to Delhi, we have broadly speaking taken the existing controlled rent as the basic rent and allowed for an increase ranging from 12½ per cent. to 25 per cent. in the case of premises let for residential purposes or for the purposes of a public hospital, educational institution, public library, reading-room or orphanage, and from 25 per cent. to 50 per cent. in other cases. No increase is allowed on the basic rent of premises which were let for the first time after the 2nd June 1944, that is, after the commencement of the Delhi Rent control Ordinance, 1944, since new premises let after that date were let at rents which took into account changed conditions. Incidentally with regard to premises let for business purposes, it will be noticed that the increase permitted under paragraph 4 of Part A is on the "basic rent" of the premises and that in all relevant cases the basic rent as defined will not include the increase permitted by section 4(1) of the Ordinance of 1944.

As regards Ajmer-Merwara, we have maintained the existing position which we understand is satisfactory. The Ajmer-Merwara Control of Rent and Eviction Order, 1946, which came into force on the 12th November, 1946, permitted certain percentages of increase in the pre-war rent, and we have decided to maintain the same percentages with slight modifications.

Clause 4.—Sub-clause (1), which is new, deals with the vexed question of subletting. Although the existing law makes subletting of the whole or any part of the premises without the consent of the landlord a sufficient ground for eviction, it is a matter of common knowledge that such subletting continues in varying degrees of surreptitiousness and that there are a number of instances where the tenants make undue profit at the expense of the sub-tenants and to the prejudice of the landlords. After giving anxious consideration to this problem, our suggestions are embodied in sub-clause (1) of this clause and paragraphs (b) and (c) of sub-clause (1) of clause 9. In the latter sub-clause we have distinguished between residential and non-residential premises, and also between subletting the whole of the premises, and subletting a part of the premises. So far as non-residential premises are concerned, subletting without the consent of the landlord whether in whole or in part and whether before or after the commencement of the Act, will as heretofore entitle the landlord to evict the tenant and also of course any one holding or purporting to hold under him. As regards residential premises we have provided in paragraphs (b) (ii) and (c) for a right of eviction in the event of a subletting of the whole premises, whether before or after the commencement of the Act, or a subletting of a part of the premises after the commencement of the Act, the same time, provision is made in sub-clause (1) of clause 4 for an addition to the standard rent of the portion sublet, half of which will go to the landlord and the other half to the tenant.

Since the "basic rent" of premises as defined in the Second Schedule may in certain cases have already taken into account the cost of improvements and structural alterations in accordance with existing rent control laws, we have amended sub-clause (2) so that in such cases a further increase of standard rent on the same score is not allowed to the landlords.

The proviso added to sub-clause (3) makes it clear that where on account of the increase of rent permitted by this Bill any tax on buildings or land imposed in respect of the premises is increased, and under an existing arrangement the tenant has made himself liable for the tax, his liability to pay the increased tax is not affected.

Clause 5.—The penal provision in the original sub-clause (2) has been revised and included in a subsequent penalty clause. In its place we have put in a provision making it unlawful for a tenant to claim or receive any payment for relinquishing his tenancy, as we understand that this malpractice is spreading fast.

In view of the provision made below in clause 13 (2) for the imposition of a fine not less than the amount unlawfully received by the landlord from the tenant, we have deleted sub-clause (3) of clause 5 as originally drafted.

Clause 8.—We consider that clause 8 as originally drafted serves no useful purpose and is unnecessary. On the other hand, express provision should be made for notice to the tenant (or sub-tenant) in all cases where the rent is sought to be increased by the landlord in consequence of the passing of this Bill. We consider that the increase should be due and recoverable only in respect of the period of tenancy after the end of the month in which a notice in writing is given in the manner provided in section 106 of the Transfer of Property Act, 1882.

Clause 9.—We have made several modifications in this clause. Apart from formal or clarificatory amendments, those of substance which we have proposed in sub-clause (1) are—

- (i) in regard to subletting : *vide* revised paragraphs (b) and (c) to which reference has already been made;
- (ii) in paragraph (e), where we have introduced a further condition in order to debar recent purchasers of premises from evicting tenants ;
- (iii) the addition of new paragraphs (h) and (i) which are self-explanatory and
- (iv) the insertion of a proviso at the end of the sub-clause with a view to give the tenant some time to find other accommodation when the landlord has obtained a decree for possession on the ground that he requires the premises for himself.

We have also modified sub-clause (3) in order to prevent possible abuses of the right given to landlords to evict tenants under paragraphs (e) of sub-clause (1). A new sub-clause (4) has been added to the effect that the provisions of the clause are not to apply to any suit or other legal proceeding for the eviction of a sub-tenant by a tenant. We consider that the period of any sub-tenancy should be left to be regulated by agreement between the tenant and the sub-tenant.

Clause 10.—The salutary provisions of sub-clause (2) should, in our opinion, be extended to all premises in the areas to be notified by the Government under sub-clause (1), and need not be restricted to residential premises in those areas.

Clause 11.—We understand that the main object of this clause is to provide accommodation in New Delhi for foreign embassies, consulates, High Commissioners and Trade Commissioners and also for certain public institutions. We have accordingly restricted the scope of the clause to residential premises within the Municipality of New Delhi, the standard rent of which is not less than Rs. 200/- per month. Besides a few minor modifications, we have provided for the payment of a small amount of compensation to landlords who have to keep the premises unoccupied for a week after giving notice to the Estate Officer of the premises becoming vacant. Any premises, the possession of which has been obtained by the landlord, whether from the Government on derequisitioning or from a tenant, on the ground that the premises are required for his own occupation and use should in our opinion be outside the scope of this clause, and we have provided accordingly in sub-clause (2).

Clause 12.—This is a new provision. It is a grievance of tenants that ever since the advent of rent control most landlords have been neglecting to make the customary annual repairs, and the tenants have no alternative but to carry out those repairs at their own expense. Since the Bill entitles the landlords to increase rents, we consider that every landlord should be bound to keep the leased premises in good and tenantable repair, and if he neglects to make the repairs within a reasonable time after notice given by the tenant, the latter should be empowered to make the repairs himself and deduct from the rent, or otherwise recover from the landlord, the expense of such repairs not exceeding one month's rent.

Clause 13.—We have brought together all the penal provisions in the revised clause 13. Sub-clause (2) provides that when any person is convicted of having made an unlawful exaction contrary to the provisions of clause 5 he shall be punished with

a fine, which shall not be less than the amount of that unlawful exaction, and shall also be punishable with simple imprisonment for a term which may extend to three months. Prosecutions for this offence should however be instituted with as little delay as possible as provided in sub-clause (4).

Clause 14.—We consider it very desirable that all suits for eviction of tenants and other suits and legal proceedings, including execution proceeding, involving questions under this Act should be disposed of expeditiously according to small cause court procedure. We have accordingly proposed that all such proceedings should be cognizable by Small Cause Courts.

A few other amendments of a formal or consequential nature have also been made in the Bill.

2. The Bill was published in Part V of the *Gazette of India*, dated the 8th February, 1947.

3. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

JOGENDRA NATH MANDAL.
C. P. LAWSON.
MOHAMMAD YAMIN KHAN.
HAFIZ M. GHAZANFARULLA.
SHAH NAZAR HASAN.
MOHAN LAL SAKSENA.
SATYA NARAYAN SINHA.
SUKHDEV.
MANU SUBEDAR.
*MANIBEN KARA.
THAKUR DAS BHARGAVA.
B. K. GOKHALE.

NEW DELHI,
Dated the 12th March, 1947.

MINUTES OF DISSENT.

I

Clause 9.—When sub-letting is not allowed in case of other premises than the residential ones, the same principle should have been applied to those as well.

SHAH NAZAR HASAN.

NEW DELHI;
The 12th March, 1947.

II

I have signed the Report of the Select Committee on Delhi Ajmer-Merwara Rent Control Act of 1947 in which I am compelled to record my disagreement on the following points :—

Generally the Bill has undergone a change for the worse and instead of providing any relief to the tenants the Bill as modified by the Select Committee will subject the tenants to a number of new hardships at the hands of a landlord. I indicate below my points of disagreement.

* Subject to a minute of dissent.

1. I would like to omit from the title and the preamble of the Bill the words "and evictions". It is inequitable to pass any legislation for the purpose of eviction.

2. *Clause 1.*—I suggest the deletion of the last proviso to sub-clause (3).

3. *Clause 4.*—I disapprove of the provision in sub-clause (1) enabling the tenant to recover 25 per cent more than the standard rent and the landlord $12\frac{1}{2}$ per cent of the same.

4. *Clause 7.*—Delete the words "and other relevant considerations".

5. *Clause 9.*—There should be a provision in Sub-clause (1) enabling the tenant to pay the rent in court. As he has to pay the court cost there will be no hardship on the landlord if such a provision is made.

I suggest the deletion of part (iii) of Sub-Clause (b).

6. *The Second Schedule.*—I am opposed to any increase in rents. I do not think there is any justification for allowing landlords to increase rents. As a compromise measure I may however suggest a maximum increase of 10 per cent except in the case of small tenements which may be required to pay a smaller increase in rent. I will not object to paragraph 4 if my suggestion with regard to a maximum increase of ten per cent is accepted in paragraph three. The same considerations will apply to part B of the Schedule. I suggest the substitution of the date "Second Day of June 1944" by "1st September 1939" in paragraph 2 of the Second Schedule.

NEW DELHI;

MANIBEN KARA.

The 12th March, 1947.

L. A. BILL No. 5 OF 1947.

(BILL AS AMENDED BY THE SELECT COMMITTEE)

(Words underlined or sidelined indicate the amendments suggested by the Committee; asterisks indicate omissions.)

A Bill to provide for the control of rents and evictions, and for the lease to Government of premises upon their becoming vacant, in certain areas in the Provinces of Delhi and Ajmer-Merwara.

WHEREAS it is expedient to provide for the control of rents and evictions, and for the lease to Government of premises upon their becoming vacant, in certain areas in the Provinces of Delhi and Ajmer-Merwara;

It is hereby enacted as follows:—

1. (1) This Act may be called the Delhi and Ajmer-Merwara Rent Control Act, 1947. Short title, extent, commencement and duration.

(2) It extends to the areas specified in the First Schedule, and such other areas in the Province of Delhi or Ajmer-Merwara as the Central Government may from time to time specify by notification in the official Gazette; but it shall not apply—

(a) to any premises the construction of which is completed after the commencement of this Act, or

(b) to any premises belonging to the Government, or

(c) to any tenancy or other like relationship created by a grant from the Government in respect of premises taken on lease or requisitioned by the Government.

(3) It shall come into force on the 24th day of March 1947, and shall remain in force for a period of two years:

Provided that the Central Government may, by notification in the official Gazette, direct that it shall remain in force for a further period not exceeding two years.

Provided further that the Central Government may at any time, by notification in the official Gazette, direct that it shall cease to be in force in such areas as may be specified in the notification on such date as may be so specified.

X of 1897.

(4) Section 6 of the General Clauses Act, 1897, shall apply upon the expiry of this Act in any area as if it had then been repealed by a Central Act.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “landlord” includes any person who for the time being is receiving or is entitled to receive the rent of any premises, whether on his own account * * * or as an agent, trustee, guardian or receiver for any other person, or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant;

(b) “premises” means any building or part of a building which is, or is intended to be, let separately for use as a residence or for commercial use or for any other purpose, and includes—

(i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building, and

(ii) any furniture supplied by the landlord for use in such building or part of a building,

but does not include a room in a dharamshala, hotel or lodging house;

(c) “standard rent”, in relation to any premises, means—

(i) standard rent of the premises as determined in accordance with the provisions of the Second Schedule, or

(ii) where the standard rent has been fixed by the Court under section 7, the rent as fixed by the Court;

(d) “tenant” means a person who takes on rent any premises for his own occupation or for the occupation of any person dependent on him * * * but does not include a collector of rents or any middleman who takes or has taken any premises on lease with a view to sub-letting them to another person.

Restriction of payments by way of rent.

3. (1) Except where rent is liable to periodical increment by virtue of an agreement entered into before the 1st day of January, 1939, or where rent is payable under a lease entered into before the 1st day of January, 1939, which has not expired before the first day of the period for which the rent is claimed, no tenant shall, notwithstanding anything contained in any contract, be liable to pay to his landlord for occupation of any premises any sum in excess of the standard rent of those premises, unless such sum may lawfully be added to the standard rent in accordance with the provisions of this Act.

(2) Any agreement for the payment of rent in excess of the standard rent shall be null and void and shall be construed as if it was an agreement for payment of the standard rent only.

Lawful increases of, or additions to, standard rent.

4. (1) Where a part of the premises let for use as a residence has been sublet by the tenant then, without prejudice to the provisions of section 9,—

(a) the landlord may increase the rent of the premises by an amount not exceeding twelve and one-half per cent. of the standard rent of the part sublet;

(b) the tenant may recover from the sub-tenant, in addition to the standard rent of the part sublet, an amount not exceeding twenty-five per cent. thereof;

(c) the tenant shall, on being so requested in writing by the landlord, supply him within fourteen days thereafter a statement in writing giving full particulars of any subletting including the rent charged.

Explanation.—For the purposes of this sub-section, the standard rent of the part sublet shall be an amount bearing such proportion to the standard rent of the premises as may be reasonable having regard to the extent of the part sublet and other relevant considerations.

(2) Where the landlord has at any time whether before or after the commencement of this Act, incurred expenditure on any improvement or structural alteration of the premises not being expenditure on decoration or normal repairs, and the cost of that improvement or structural alteration has not been taken into account in determining the standard rent of the premises, he may increase the rent per year by an amount not exceeding six and one-quarter per cent. of such cost.

(3) Where the landlord pays in respect of the premises any charge for electricity or water consumed in the premises, or any other charge levied by a local authority having jurisdiction in the area which is ordinarily payable by the tenant, he may recover from the tenant any amount so paid by him; but * * * * * no landlord shall recover from his tenant, whether by means of an increase in rent or otherwise, the amount of any tax on buildings or land imposed in respect of the premises occupied by the tenant :

Provided that nothing in this sub-section shall affect the liability of any tenant under an agreement, express or implied, to pay from time to time the amount of any such tax as aforesaid.

5. (1) It shall not be lawful for the landlord or any person acting or purporting to act on behalf of the landlord, to claim or receive, in consideration of the grant, continuance or renewal of a tenancy of any premises payment of any fine, premium, advance or other like sum in addition to rent, or, save as otherwise provided in section 4 or section 7, any rent in excess of the standard rent of the premises.

Unlawful charges by landlord; or tenant.

(2) It shall not be lawful for the tenant, or any person acting or purporting to act on behalf of the tenant, to claim or receive any payment in consideration of the relinquishment of his tenancy of any premises.

* * * * *

(3) Nothing in this section shall apply to any payment made in pursuance of an agreement entered into before the 1st day of November, 1939.

6. No collector of rents or middleman shall be liable to pay to his principal in respect of any premises any sum by way of rental charges which exceeds the amount which he is entitled under this Act to realise from the tenant or tenants of the premises.

Limitation of liability of middlemen.

Determination of
disputes regarding
rent.

7. (1) If any dispute arises regarding the standard rent payable in respect of any premises it shall be determined by the Court.

(2) Where for any reason it is not possible to determine the standard rent of any premises on the principles set forth in the Second Schedule, the court may, on the application of any person interested or of its own motion, determine the standard rent, and in so doing shall have regard to the standard rents of * similar premises in the same locality and other relevant considerations.

(3) Where the standard rent of any premises has been settled on the basis of a lease for a period of one year or more and the court has to determine the standard rent of the same premises on a lease for a period of less than one year or *vice versa*, the standard rent shall be calculated in accordance with the Third Schedule.

(4) Where the court determines the standard rent of any premises under this section, the court shall determine the standard rent of the premises in an unfurnished state, but may also determine an additional charge to be payable on account of fittings or furnishings included in the lease, and it shall be lawful for the landlord to recover such additional charge from the tenant.

(5) In every case in which the court determines the standard rent of any premises under this section it shall appoint a date from which the standard rent so determined shall be deemed to have effect.

Notice of increase
of rent.

8. (1) Where the landlord wishes to increase the rent of any premises he shall give the tenant notice of his intention to make the increase, and, in so far as such increase is permissible under this Act, it shall be due and recoverable only in respect of the period of tenancy after the end of the month in which the notice is given.

(2) Every notice under sub-section (1) shall be in writing signed by or on behalf of the landlord and given in the manner provided in section 106 of the Transfer of Property Act, 1882.

(3) For the avoidance of doubt it is hereby declared that the provisions of this section apply equally to any increase in the rent payable by a sub-tenant.

IV of 1882

Ejection of tenants

9. (1) Notwithstanding anything contained in any contract, no court shall pass any decree in favour of a landlord, or make any order, in favour of a landlord whether in execution of a decree or otherwise, evicting any tenant, whether or not the period of the tenancy has terminated, unless it is satisfied either—

(a) that the tenant has not neither paid nor tendered the whole of any arrears of rent due, within one month of the service on him in the manner provided in section 106 of the Transfer of Property Act, 1882, of a notice of demand by the landlord ; or

(b) that the tenant * without the consent of the landlord, has, whether before or after the commencement of this Act,—

(i) used the premises for a purpose other than that for which they were let, or

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- (ii) assigned, sublet, or otherwise parted with the possession of, the whole of the premises, or
- (iii) where the premises were let for a purpose other than use as a residence, sublet any part of the premises ; or
- (c) that the premises having been let for use as a residence, the tenant without the consent of the landlord has, after the commencement of this Act, sublet any part of the premises ; or
- (d) that the premises were let for use as a residence and neither the tenant nor any member of his family has been residing therein for a period of six months immediately before the date of the institution of the suit for eviction ; or
- (e) that the premises are required *bona fide* by the landlord for occupation as a residence for himself or his family, that he is unable to secure other suitable accommodation, and that he has acquired his interest in the premises at a date prior to the beginning of the tenancy or the 1st day of January, 1943, whichever is later or, if the interest has devolved on him by inheritance or succession, his predecessor had acquired the interest at a date prior to the beginning of the tenancy or the 1st day of January, 1943, whichever is later ; or
- (f) that the premises were let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and that the tenant has ceased, whether before or after the commencement of this Act, to be in such service or employment ; or
- (g) that the tenant has been guilty of conduct which is a nuisance or annoyance to the occupiers of neighbouring premises or other occupiers of the same premises ; or
- (h) that the tenant has, whether before or after the commencement of this Act, caused or permitted to be caused substantial damage to the premises, or used or dealt with the premises in a manner contrary to any condition imposed by the Government or the Delhi Improvement Trust on the landlord while giving him a lease of the land on which the premises are situated ; or
- (i) that the landlord requires the premises in order to carry out any building work—
- (i) at the instance of the Government or the Delhi Improvement Trust in pursuance of an improvement scheme, or development scheme, or
- (ii) because the premises have become unsafe or unfit for human habitation ;

Provided that where a decree evicting a tenant is made on the grounds set forth in clause (e), the landlord shall not be entitled to obtain possession of the premises by process of the Court issued in execution, before the expiration of a period of three months after the date of the decree.

(2) For the purposes of clause (b) or clause (c) of sub-section (1), a court may presume that premises let for use as a residence were or are sublet by the tenant in whole or in part to another person, if it is satisfied that such person, not being a servant of the tenant or a member of the family of such servant, was or has been residing in the premises or any part thereof for a period exceeding one month otherwise than in commensality with the tenant.

(3) Where a decree or order evicting a tenant is made on the grounds set forth in clause (e) of sub-section (1) and the landlord fails to occupy and use the premises as a residence for himself or his family within two months of obtaining possession thereof, or at any time within one year of obtaining possession of the premises lets the whole or any part thereof to any person other than the evicted tenant, the Court may on the application of the evicted tenant place him in possession of the premises and award such damages as it thinks fit against the landlord.

(4) Nothing in this section shall apply to any suit or other legal proceeding for the eviction of a sub-tenant by a tenant.

Special provision
regarding vacant
building sites

10. (1) The provisions of this section shall apply notwithstanding anything contained in section 9, but only in relation to premises in such areas as the Central Government may from time to time specify by notification in the official Gazette.

(2) Where any premises which have been let comprise vacant grounds upon which it is permissible under the building regulations or other municipal bye-laws for the time being in force to erect another building, whether for use as a residence or for any other purpose and the landlord proposing to erect such building is unable to obtain possession of those grounds from the tenant by agreement with him, the landlord may apply to the Court, and the Court may, if it is satisfied that the landlord is ready and willing to commence the work and that the severance of the vacant grounds from the rest of the premises will not cause undue hardship to the tenant,—

(a) direct such severance,

(b) place the landlord in possession of the vacant grounds,

(c) determine the rent payable by the tenant thereafter in respect of the rest of the premises, and

(d) make such other orders as it thinks fit in the circumstances of the case.

Lease to Govern-
ment of premises
becoming vacant

11. (1) The provisions of this section shall apply only in relation to premises within the Municipality of New Delhi which are, or are tended to be, let for use as a residence.

(2) Whenever any premises the standard rent of which is not less than two thousand and four hundred rupees per year becomes vacant, either by the landlord ceasing to occupy the premises or by the termination of a tenancy or by the eviction of a tenant or by the release of the premises from requisition or otherwise,—

(a) the landlord shall, within seven days of the premises becoming vacant, give intimation thereof in writing to the Estate Officer to the Government of India ;

(b) whether or not such intimation is given, the Estate Officer may serve on the landlord by post or otherwise a notice—

(i) informing him that the premises are required by the Government for the duration of this Act or for such shorter period as may be specified in the notice, and

(ii) requiring him, and every person claiming under him, to deliver possession of the premises forthwith to such officer or person as may be specified in the notice :

Provided that where the landlord has given the intimation required by clause (a) no notice shall be issued by the Estate Officer under clause (b) more than seven days after the delivery to him of the intimation :

Provided further that nothing in this sub-section shall apply in respect of any premises the possession of which has been obtained by the landlord on the basis of a decree or order made on the grounds set forth in clause (c) of sub-section (1) of section 9 or in respect of any premises which have been released from requisition for the occupation and use of the landlord himself.

(3) Upon the service of a notice under clause (b) of sub-section (2) the premises shall be deemed to have been leased to the Government for the period specified in the notice, as from the date of the delivery of the intimation under clause (a) of sub-section (2) or in a case where no such intimation has been given, as from the date on which possession of the premises is delivered in pursuance of the notice, and the other terms of the lease shall be such as may be agreed upon between the Government and the landlord or in default of agreement as may be determined by the court, in accordance with the provisions of this Act.

(4) In every case where the landlord has in accordance with the provisions of sub-section (2) given intimation of any premises becoming vacant and the premises are not taken on lease by the Government under this section, the Government shall pay to the landlord a sum equal to one-fiftysecond of the standard rent per year of the premises.

(5) Any premises taken on lease by the Government under this section may be put to any such use as the Government thinks fit, and in particular the Government may permit the use of the premises for the purposes of any public institution or any foreign embassy, legation or consulate or any High Commissioner or Trade Commissioner, or as a residence by any officer in the service of the Government or of a foreign embassy, legation or consulate or of a High Commissioner or Trade Commissioner.

12. (1) Notwithstanding anything contained in any contract, the landlord shall be bound to keep in good and tenantable repair any premises to which this Act applies.

Landlord's duty to keep premises in good repair

(2) If the landlord neglects to make, within a reasonable time after notice, any repairs which he is bound to make under sub-section (1), the tenant may make the same himself, and deduct the expenses of such repairs from the rent, or otherwise recover it from the landlord :

Provided that the amount so deducted or recoverable in any year shall not exceed one twelfth of the rent payable by the tenant for that year.

Penalties.

13. (1) If any person fails to comply with the provisions of clause (c) of sub-section (1) of section 4, or supplies under that clause a statement which is false in any material particular, he shall be punishable with fine which may extend to one thousand rupees.

(2) If any person receives any payment prohibited by sub-section (1) or sub-section (2) of section 5, he shall be punished with fine which shall not be less than the amount so received by him but shall not exceed that amount by more than one thousand rupees, and shall also be punishable with simple imprisonment for a term which may extend to three months.

V of 1898

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any Magistrate of the first class may pass a sentence of fine exceeding one thousand rupees or a person convicted of an offence punishable under sub-section (2) of this section.

(4) No court shall try any person for an offence punishable under sub-section (2) of this section after the expiry of three months from the date of the commission of the offence unless complaint in respect of the offence has been made to a Magistrate within those three months.

(5) If any person contravenes the provisions of clause (a) of sub-section (2) of section 11, or fails to comply with a requirement under clause (b) thereof, he shall be punishable with fine which may extend to one thousand rupees.

**Suits, etc., under
Act cognizable by
small cause courts
IX of 1887**

14. Notwithstanding anything contained in section 15 of the Provincial Small Cause Courts Act, 1887, or in any other law or the time being in force, any suit for the eviction of a tenant from any premises to which this Act applies and any other suit or proceeding of a civil nature involving a question which under this Act is to be determined by the Court shall be cognizable by the Court of Small Causes, and that Court shall have jurisdiction to deal with any execution proceedings arising out of any such suit as aforesaid.

**Repeals and sav-
ings
XXV of 1944**

15. (1) The Delhi Rent Control Ordinance, 1944, the New Delhi House Rent Control Order, 1939, and the Ajmer-Merwara Control of Rent and Eviction Order, 1946 are hereby repealed; but the repeal shall not affect -

**Punjab Act
X of 1941**

(a) the previous operation of, or anything duly done or suffered to be done under, the said Ordinance or Orders; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Ordinance or orders; or

(c) any penalty, forfeiture or punishment incurred in respect of any contravention of the said Ordinance or Orders; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if the said Ordinance and Orders had not been repealed, and had been duly made and continued in force.

**Punjab Act X of
1941.**

(2) The Punjab Urban Rent Restriction Act, 1941, shall cease to have effect the Province of Delhi.

THE FIRST SCHEDULE

[See section 1 (2)]

AREAS TO WHICH THE ACT EXTENDS.

A. *The Province of Delhi*—

1. The Municipality of Delhi ;
2. The Municipality of New Delhi ;
3. The Cantonment of Delhi ;
4. The Notified Area of the Civil Station, Delhi ;
5. The Municipality of Shahdara.

B. *The Province of Ajmer-Merwara*—

1. The Municipality of Amjer and all land within one mile of the limits of that Municipality ;
2. The Municipality of Beawar and all land within one mile of the limits of that Municipality ;
3. The Cantonment of Nasirabad and all land within one mile of the limits of that Cantonment.

THE SECOND SCHEDULE.

[See section 2 (c)]

PART A.

PROVISIONS FOR DETERMINING THE STANDARD RENT OF PREMISES IN THE PROVINCE OF DELHI.

1. In this Part of this Schedule, "basic rent" in relation to any premises means—

(a) where the fair rent of the premises has been determined or re-determined under the provisions of the New Delhi House Rent Control Order, 1939, the rent as so determined, or as the case may be, re-determined ;

(b) where the standard rent of the premises has been fixed by the Court under section 7 of the Delhi Rent Control Ordinance 1944, the rent as so fixed ;

XXV of 1944.

(c) in any other case,—

(i) the rent at which the premises were let on the 1st day of November, 1939, or

(ii) if the premises were not let on that date, the rent at which they were first let after that date.

2. Where the premises in respect of which rent is payable were first let, for whatever purpose, after the 2nd day of June 1944, the standard rent of the premises shall be the same as the basic rent thereof.

3. Where the premises in respect of which rent is payable, not being premises to which paragraph 2 applies, are let for the purpose of being used as a residence or for any of the purposes of a public hospital, an educational institution, a public library or reading-room or an orphanage, the standard rent of the premises shall be the basic rent increased by—

(a) $12\frac{1}{4}\%$ thereof, if the basic rent per annum is not more than Rs. 300,

(b) $15\frac{5}{8}\%$ thereof, if the basic rent per annum is more than Rs. 300, but not more than Rs. 600,

(c) $18\frac{1}{4}\%$ thereof, if the basic rent per annum is more than Rs. 600, but not more than Rs. 1,200, or

(d) 25% thereof, if the basic rent per annum is more than Rs. 1,200.

4. Where the premises in respect of which rent is payable, not being premises to which paragraph 2 applies, are let for any purpose other than those mentioned in paragraph 3, the standard rent of the premises shall be the basic rent increased by twice the amount by which it would be increased under paragraph 3 if the premises were let for a purpose mentioned in that paragraph.

PART B.

PROVISIONS FOR DETERMINING THE STANDARD RENT OF PREMISES IN THE PROVINCE OF AJMER-MERWARA.

1. In this Part of this Schedule, "basic rent" in relation to any premises means—

(a) where the fair rent of the premises has been determined or re-determined under the provisions of the Ajmer House Rent Control Order, 1943, the rent as so determined, or, as the case may be, re-determined;

(b) in any other case,—

(i) the rent at which the premises were let on the 1st day of September, 1939, or

(ii) if the premises were not let on that date, the rent at which they were first let after that date.

2. Where the premises in respect of which rent is payable were first let, for whatever purpose, after the 12th day of November, 1946, the standard rent of the premises shall be the same as the basic rent thereof.

3. Where the premises in respect of which rent is payable are let for use as a residence, the standard rent of the premises shall be the basic rent increased by—

(a) $8\frac{1}{4}\%$ thereof, if the basic rent per annum is not more than Rs. 300,

(b) $12\frac{1}{4}\%$ thereof, if the basic rent per annum is more than Rs. 300 but not more than Rs. 600,

(c) $18\frac{1}{4}\%$ thereof if the basic rent per annum is more than Rs. 600, but not more than Rs. 1,200, or

(d) 25% thereof if the basic rent per annum is more than Rs. 1,200.

4. Where the premises in respect of which rent is payable are let for any purpose other than use as a residence, the standard rent of the premises shall be the basic rent increased by—

(a) 25% thereof, if the basic rent per annum is not more than Rs. 600,

(b) $37\frac{1}{4}\%$ thereof, if the basic rent per annum is more than Rs. 600, but not more than Rs. 1,200, or

(c) 50% thereof, if the basic rent per annum is more than Rs. 1,200.

THE THIRD SCHEDULE

[See section 7 (3)]

METHOD OF CALCULATING STANDARD RENTS IN THE CASES REFERRED TO IN SUB-SECTION (3) OF SECTION 7

If the standard rent of premises for a tenancy of twelve months or more is R, the standard rent for any of the shorter periods specified in column 1 shall be as set forth in column 2 of the following table, and *vice versa*, namely :—

Period of Tenancy	Standard Rent
More than 11 months, but not more than 12 months . . .	R
	1188
More than 10 months, but not more than 11 months . . .	R ×
	1200
	1160
More than 9 months, but not more than 10 months . . .	R ×
	1200
	1116
More than 8 months, but not more than 9 months . . .	R ×
	1200
	1040
More than 7 months, but not more than 8 months . . .	R ×
	1200
	980
More than 6 months, but not more than 7 months . . .	R ×
	1200
	900
More than 5 months, but not more than 6 months . . .	R ×
	1200
	800
More than 4 months, but not more than 5 months . . .	R ×
	1200
	680
More than 3 months, but not more than 4 months . . .	R ×
	1200
	540
More than 2 months, but not more than 3 months . . .	R ×
	1200
	380
More than 1 month, but not more than 2 months . . .	R ×
	1200
	190
Not more than 1 month	R ×
	1200

The following Report of Select Committee on the Bill to continue for a limited period powers to prohibit or control imports and exports, was presented to the Legislative Assembly on the 12th March, 1947 :—

WE, the undersigned, members of the Select Committee to which the Bill was referred, have considered the Bill to continue for a limited period powers to prohibit or control imports and exports and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

We considered certain questions of detail in regard to the administration of the powers of control to be conferred by the Bill, but decided that the only amendments necessary in the Bill were the insertion of a clause (now clause 6) dealing with the cognizance and trial of offences under the Bill and consequential insertions in the definition clause (clause 2).

2. The Bill was published in Part V of the *Gazette of India*, dated the 15th February, 1947.¹

3. We think that the Bill has not been so altered as to require republication and we recommend that it be passed as now amended.

NEW DELHI,
The 12th March, 1947.

JOGENDRA NATH MANDAL.
ISMAIL I. CHUNDRIGAR.
R. VENKATASUBBA REDDIAR.
*B. P. JHUNJHUNWALA.
D. P. KARMARKAR.
HAFIZ M. GHAZANFARULLA.
MOHAMMAD M. KILLEDAR.
*VADILAL LALLUBHAI.
*C. P. LAWSON.

MINUTES OF DISSENT

I

There is no objection to the restrictions of import and export of any commodity whenever the country requires it. Be it for one year, three years or even more. But I object to the continuance of the present system of giving licences to import and export a particular commodity to a particular person or class of persons, as this has resulted in creating a group of vested interests consisting of officials and the merchants to whom licences are issued, and has led to various sorts of nepotism and corruption, and has come in the way of freedom of trade. I would therefore suggest that the following provisions should be made in the body of the Act itself :—

In clause 3 sub-clause (1) add at the end—

Provided that the Central Government may not issue licences or permits in favour of any particular person or class of persons for importing or exporting the restricted commodities.

Further add (c) to clause 3 (1)— .

That the importer or exporter of any restricted commodity under this Act, shall arrange exchange for remittance or receipt of value of the commodity imported or exported only through the Reserve Bank of India or through such other Banks or authorised dealers as the Reserve Bank may direct.

B. P. JHUNJHUNWALA.

NEW DELHI ;
The 12th March, 1947.

¹Subject to a minute of dissent.

II

There is no objection to the restrictions of import and export of any commodity whenever the country requires it. Be it for one year, three years or even more. But we object to the continuance of the present system of giving licences to import and export a particular commodity to a particular person or class of persons as this has resulted in creating a group of vested interests consisting of officials and the merchants to whom licences are issued and has led to various sorts of nepotism and corruption, and has come in the way of freedom of trade. I would therefore desire that the necessary change should be made in the body of the Act itself, to avoid these contingencies.

VADILAL LALLUBHAI.

NEW DELHI ;

The 12th March, 1947.

III

1. I consider that the duration of this Bill is excessive and may lead to the exercise of control long after the need for it has disappeared. It would, I think, have been adequate if the duration had been one year with a proviso that the Central Government might by notification in the official Gazette direct that it should remain in force for a further period not exceeding two years.

2. I consider that the words occurring in sub-clause (2) of clause 3 after "accordingly" in the 5th line should be omitted. There is no ground for removing the option which Section 183 of the Sea Customs Act, 1878, gives to an importer of accepting a fine in lieu of confiscation or *vice versa*. The new provision may have been necessary in war time but it should not be necessary in peace time.

3. I consider also that a proviso should have been added to sub-clause (1) of clause 3 limiting the operation of a restriction on imports to a period of, say, six months when such restriction is made for the protection of an indigenous industry. The proper method of giving such protection is by customs tariff and the period suggested should be sufficient to enable the Tariff Board to submit a report.

C. P. LAWSON.

NEW DELHI ;

The 12th March, 1947.

L. A. BILL NO. 17 OF 1947.

(Words *sidelined* indicate the amendments suggested by the Committee ;

A Bill to continue for a limited period powers to prohibit or control imports and exports

WHEREAS it is expedient to continue for a limited period powers to prohibit, restrict or otherwise control imports into and exports from British India ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Imports and Exports Short title, extent, commencement and duration.
(Control) Act, 1947.

(2) It extends to the whole of British India.

(3) It shall come into force on the 25th day of March, 1947, and shall remain in force for a period of three years only.

2. In this Act,—

Interpretation.

(a) "Customs-collector" means a Customs-collector as defined in the Sea Customs Act, 1878, or a Collector VIII of 1878. of Land Customs appointed under the Land Customs Act, XIX of 1924. 1924 ;

(b) "import" and "export" mean respectively bringing into, and taking out of, British India by sea, land or air ;

(c) "officer of Customs" means an officer of Customs appointed under the Sea Customs Act, 1878, or a Land Customs Officer appointed under the Land Customs Act, 1924.

Powers to prohibit or restrict imports and exports.

3. (1) The Central Government may, by order published in the official Gazette, make provision for prohibiting, restricting or otherwise controlling, in all cases or in specified classes of cases, and subject to such exceptions, if any, as may be made by or under the order,—

(a) the import, export, carriage coastwise or shipment as ships' stores of goods of any specified description ;

(b) the bringing into any port or place in British India of goods of any specified description intended to be taken out of British India without being removed from the ship or conveyance in which they are being carried.

(2) All goods to which any order under sub-section (1) applies shall be deemed to be goods of which the import or export has been prohibited or restricted under section 19 of the Sea Customs Act, 1878, and all the provisions of that Act shall have effect accordingly, except that section 183 thereof shall have effect as if for the word "shall" therein the word "may" were substituted.

VIII of 1878.

(3) Notwithstanding anything contained in the aforesaid Act, the Central Government may, by order published in the official Gazette, prohibit, restrict or impose conditions on the clearance, whether for home consumption or for shipment abroad, of any goods or class of goods imported into British India.

Continuance of existing orders.
XX of 1946.

4. All orders made under rule 84 of the Defence of India Rules or that rule as continued in force by the Emergency Provisions (Continuance) Ordinance, 1946, and in force immediately before the commencement of this Act shall, so far as they are not inconsistent with the provisions of this Act, continue in force and be deemed to have been made under this Act.

Penalty.

5. If any person contravenes any order made or deemed to have been made under this Act, he shall, without prejudice to any confiscation or penalty to which he may be liable under the provisions of the Sea Customs Act, 1878, as applied by sub-section (2) of section 3, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

VIII of 1878.

Cognizance of offences.

6. No Court shall take cognizance of any offence punishable under section 5 except upon complaint in writing made by a Customs-collector or by an officer of Customs authorised in writing in this behalf by a Customs-collector, and no Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any such offence.

Savings.

7. No order made or deemed to have been made under this Act shall be called in question in any Court, and no suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act or any order made or deemed to have been made thereunder.

The following Bill was introduced in the Legislative Assembly on the 17th March, 1947:—

L. A. BILL No. 31 of 1947.

A Bill to provide for the control of shipping.

WHEREAS it is expedient to provide for the control of shipping for a limited period;

It is hereby enacted as follows:—

1. (1) This Act may be called the Control of Shipping Act, **Short title, extent, commencement and duration.**
1947.

(2) It extends to the whole of British India, and applies also to, and to persons on, ships registered in British India, wherever they may be.

(3) It shall come into force on the 25th day of March 1947, and shall remain in force for three years only.

2. In this Act, unless there is anything repugnant in the subject Interpretation. or context,—

(a) "master" and "passenger" have the meanings respectively assigned to them in the Indian Merchant Shipping Act, XXI of 1923. 1923;]

(b) "owner" includes the agent of an owner;

(c) "ship" does not include a ship of less than 150 gross registered tons or a sailing ship;

(d) "Shipping Authority" means any authority or officer authorised by the Central Government by notification in the official Gazette to perform the functions of a Shipping Authority under this Act.

3. (1) No ship registered in British India shall be taken to sea^a Licences from a port or place within or outside British India except under a valid licence granted by a Shipping Authority under this section.

(2) A licence granted under this section may be either a general licence or a specified voyage licence.

(3) A general licence shall remain valid until it is revoked by the Shipping Authority which granted it, and a specified voyage licence shall be valid only for the particular voyage for which it is granted.

(4) A licence granted under this section may contain such limitations and conditions as the Shipping Authority granting it may think fit to impose with respect to the trades in which the ship may engage and the voyages which it may undertake, and such limitations and conditions may be imposed so as to apply to the ship wherever it may be, or while in such waters or engaged in such trades or on such voyages, as may be specified.

(5) When a licence ceases to be valid, the person to whom it was granted shall, without unreasonable delay, return it or cause it to be returned to the Shipping Authority which granted it.

(6) For the avoidance of doubts it is hereby declared that any licence granted under an order made under rule 65 of the Defence of India Rules or that rule as continued in force by the Emergency Provisions (Continuance) Ordinance, 1946, and valid immediately XX of 1946.

before the expiry of the said Ordinance shall continue to be valid according to its tenor and shall be deemed to have been granted under this section.

No port-clearance
until licence is
produced.
XXI of 1923.

4. Without prejudice to the provisions of section 127 of the Indian Merchant Shipping Act, 1923, no officer of Customs shall grant a port-clearance to a ship registered in British India until after the production by the owner or master thereof of a valid licence granted under this Act in respect of the ship.

Power to give
directions.

5. (1) The Shipping Authority which granted a licence in respect of a ship under section 3 may, from time to time while the licence is valid, by order in writing give directions with respect to—

(a) the ports or places to which, and the routes by which, the ship shall proceed for any particular purpose;

(b) the classes of passengers or cargo which may be carried in the ship;

(c) the order of priority in which passenger or cargo may be taken on or put off the ship at any port or place, whether within or outside British India.

(2) The Central Government or any Shipping Authority may from time to time by order in writing give general or special directions applicable to any ship registered outside British India and about to proceed from a port or place in British India to any port or place in the continent of India with respect to the order of priority in which passengers or cargo may be taken on the ship at such port or place in British India:

Provided that no directions under this sub-section shall apply to any such ship which is not taking on passengers or cargo at a port or place in British India for discharge at any port or place in the continent of India.

Power to fix
shipping rates.

6. The Central Government may from time to time, by order published in the official Gazette, fix the rates at which any ship registered in British India may be hired, and the rates which may be charged for the carriage of passengers or cargo taken on any ship whether registered in British India or not, at a port or place in British India for discharge at any port or place in the continent of India.

Power to call for
information.

7. A Shipping Authority may, by notice served by post, require—

(a) the master or owner of any ship in respect of which a licence granted by the Shipping Authority under this Act is in force, or

(b) the master or the agent in British India of the owner of any ship in respect of which any directions have been or may be given under sub-section (2) of section 5,—

to furnish, within the period specified in the notice, information regarding any of the following matters, namely:—

(i) the classes of passengers and cargo which the ship is about to carry or is capable of carrying;

(ii) the rates of passenger fares and freight charges applicable to the ship;

(iii) any other matter which may be prescribed by rules made under section 9.

8. (1) If the provisions of sub-section (1) of section 3 or of any order under section 6 or, without reasonable excuse, any limitations or conditions contained in a licence granted under this Act or any directions given under section 5, are contravened, the master and the owner (or in the case of a ship registered outside British India, the agent in British India of the owner) of the ship in respect of which the contravention has taken place shall each be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) If any person on whom a notice has been served under section 7 fails to furnish the information required, within the specified time or, in furnishing such information, makes any statement which he knows to be false in any material particular, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(3) If any licence is not returned to the Shipping Authority which granted it within a reasonable period after it has ceased to be valid, the person to whom it was granted shall be punishable with fine which may extend to one hundred rupees.

(4) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this section.

(5) If the person committing an offence punishable under this section is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that he exercised all due diligence to prevent the commission of the offence, be deemed to be guilty of such offence.

9. (1) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for any of the following matters, namely:—

(a) the forms of licences granted under this Act;

(b) the matters regarding which information may be required to be furnished under section 7.

STATEMENT OF OBJECTS AND REASONS.

Ordinance No. XX of 1946, whereby provision was made for the continuance *inter alia* of Defence of India Rule 65 relating to control of trade by seas, ceases to be valid on the 25th March 1947. It is considered that conditions are still so abnormal as to make it necessary to continue a form of control with a view to ensuring the required priority for movement by sea of coal, foodstuff, and other essential cargoes. With regard to ships registered in British India, the Bill provides for a system of licensing which will enable the shipping authority to specify the trades in which ships may engage and the voyages which they may undertake, and also to issue directions in respect of passenger and cargo priorities and routes. Ships registered outside British India will not be subject to licensing, but may be given priority directions provided they are taking on passengers or cargo in a British Indian port for discharge at any port in the continent of India. By the exercise of these powers, Government will be able to ensure essential supplies of coal both for the railways and for industry in the south and west of India, and transport of foodgrains and salt from the west coast.

2. Provision has also been made for control over fares and freight rates. In existing conditions Government consider it desirable that this power should be taken in order to protect the public from exploitation; fares and rates in nearly all other forms of transport are being controlled, and it is not desirable that sea transport should be allowed to form an exception. This provision will also enable action to be taken, should circumstances necessitate it, to prevent rate wars and other forms of wasteful competition.

NEW DELHI ;

ISMAIL I. CHUNDRIGAR.

THE 4th March, 1947.

The following Bill was introduced in the Legislative Assembly on the 17th March, 1947:—

L. A. BILL NO. 32 OF 1947.

A Bill to provide for the continuance of control over issues of capital.

WHEREAS it is expedient to provide for the continuance of control over issues of capital ;

**Short title,
extent, com-
mencement and
duration**

It is hereby enacted as follows :—

1. (1) This Act may be called the Capital Issues (Continuance of Control) Act, 1947.

(2) It extends to the whole of British India, and applies also to British subjects and servants of the Crown in any part of India, and to British subjects who are domiciled in any part of India wherever they may be.

(3) It shall cease to have effect on the first day of April, 1952.

Definitions

2. In this Act,—

(a) "issue of capital" means the issuing of any securities whether for cash or otherwise ;

(b) "securities" means any of the following instruments issued, or to be issued, by or for the benefit of a company, whether incorporated in British India or not, namely :—

(i) shares, stocks and bonds ;

(ii) debentures ;

(iii) other instruments creating a charge or lien on the assets of the company ; and

(iv) instruments acknowledging loan to or indebtedness of the company and guaranteed by a third party or entered into jointly with a third party.

**Control over
issues of capital**

3. (1) No company incorporated in British India shall, except with the consent of the Central Government, make an issue of capital outside British India.

(2) No company, whether incorporated in British India or not, shall except with the consent of the Central Government,—

(a) make an issue of capital in British India ;

(b) make in British India any public offer of securities for sale ;

(c) renew or postpone the date of maturity or repayment of any security maturing for payment in British India.

(3) The Central Government may on application make an order according recognition to an issue of capital made or to be made outside British India by a company not incorporated in British India.

(4) The Central Government may qualify any consent or recognition accorded by it under sub-section (2) or sub-section (3) with such conditions, whether for immediate or future fulfilment, as it may think fit to impose; and where a company acts in pursuance of such consent or recognition, it shall comply with the terms of any condition so imposed.

4. No person shall issue in British India any prospectus or other document offering for subscription or publicly offering for sale any securities which does not include a statement that the consent or recognition, as the case may be, of the Central Government has been obtained to the issue or offer of the securities, and no person shall without the consent of the Central Government issue in British India any document publicly offering for sale any security issued with the consent or recognition of the Central Government if such issue was made by a private company or if the order according its consent or recognition contained a condition that the securities should be privately subscribed. Control over prospectuses and other advertisements.

5. (1) No person shall accept or give any consideration for any securities in respect of an issue of capital made or proposed to be made in British India or elsewhere unless the consent or recognition of the Central Government has been accorded to such issue of capital. Purchase and sale of securities.

(2) No person shall sell or purchase or otherwise transfer or accept transfer of any securities issued by a company in respect of any issue of capital made after the 17th day of May 1943 in British India or elsewhere unless such issue has been made with the consent or recognition of the Central Government.

6. (1) The Central Government may, by general order which shall be notified in the official Gazette, provide for the granting of exemption from all or any of the provisions of sections 3, 4 and 5. Power to exempt and to condone contraventions.

(2) The Central Government may by order condone a contravention of any of the provisions of section 3 or section 4, and on the making of such order the provisions of this Act shall have effect as if an exemption had been granted under sub-section (1) of this section in respect of the thing done or omitted to be done in contravention of section 3 or section 4, as the case may be.

7. Any officer authorised in this behalf by the Central Government may, for the purpose of enquiring into the correctness of any statement made in an application for consent or recognition to an issue of capital or for the purpose of ascertaining whether or not the requirements of any condition attached to an order according such consent or recognition have been complied with, require any company, or any officer of a company, which has made such application or obtained such order to submit to him such accounts, books or other documents, or to furnish to him such information, as he may reasonably think necessary. Power to call for information.

8. No person shall, when complying with any requisition under section 7 or when making any application for consent or recognition to an issue of capital, give any information or make any statement which he knows, or has reasonable cause to believe, to be false or not true in any material particular. False statements.

Prohibition against disclosing information.

9. No person who obtains any information by virtue of this Act shall, otherwise than in connection with the execution of the provisions of this Act or of any order made in pursuance thereof, disclose that information to any other person except with the permission of the Central Government.

Power to delegate function.

10. The Central Government may by order direct that any power or duty which by or under any of the preceding provisions of this Act is conferred or imposed upon the Central Government shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by any officer subordinate to that Government.

Power to make rules.

11. The Central Government may by notification in the official Gazette make rules for carrying out the purposes of this Act.

Penalties.

12. (1) Whoever contravenes, or attempts to contravene, any of the provisions of this Act or of any order made thereunder shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

(2) If the person committing an offence punishable under this section is a company or other body corporate, every director, manager, secretary or other officer thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent its commission, be deemed to be guilty of such offence.

Burden of proof in certain cases.

13. Where any person is prosecuted for contravening any provision of this Act or of any order made thereunder which prohibits him from doing an act without the consent or permission of any authority the burden of proving that he had the requisite consent or permission shall be on him.

Protection of action taken under Act.

14. No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Act or any rule or order made thereunder.

Continuance of existing orders and savings.

15. (1) All orders made under rule 94A of the Defence of India Rules or under the said rule as continued in force by the Emergency Provisions (Continuance) Ordinance, 1946, and in force immediately before the commencement of this Act shall continue to be in force and be deemed to be orders made under the appropriate provisions of this Act.

(2) The expiration of rule 94A of the Defence of India Rules or of the said rule as continued in force by the Emergency Provisions (Continuance) Ordinance, 1946, shall not affect—

(a) anything done thereunder,

(b) any right, privilege, obligation or liability, acquired or incurred under that rule or any order made thereunder,

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against that rule, or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the said rule had not expired

XX of 1946.

STATEMENT OF OBJECTS AND REASONS

The object of this measure is to keep in existence for five years more the control over capital issues which was imposed by Rule 94-A of the Defence of India Rules in May, 1943, and continued in force after the expiry of the Defence of India Act by Ordinance No. XX of 1946. Although there has been an appreciable change in the general conditions which constituted the principal reason for the introduction of the control during war-time, it is thought in the light of experience gained that the control is still necessary to secure a balanced investment of the country's resources in industry, agriculture and the social services.

LIAQUAT ALI KHAN.

NEW DELHI;

The 14th March, 1947.

The following Bill was introduced in the Legislative Assembly on the 17th March, 1947:—

L. A. BILL No. 83 OF 1947

A Bill further to amend the Provincial Insolvency Act, 1920

WHEREAS it is expedient further to amend the Provincial Insolvency Act, 1920, for the purpose herein-after appearing ;

It is hereby enacted as follows :—

1. This Act may be called the Provincial Insolvency Short title.
(Amendment) Act, 1947.

2. In the Provincial Insolvency Act, 1920, after section 50 and before the heading "*Effect of insolvency on antecedent transactions*" the following heading and section shall be inserted, namely :—

Insertion of new section 50A in Act V of 1920.

"Property available for payment of debts.

50A. (1) The property of the insolvent divisible amongst his creditors, and in this Act referred to as the property of the insolvent, shall not comprise the following particulars, namely :—

Description of insolvent's property divisible amongst creditors.

(a) property held by the insolvent on trust for any other person ;

(b) the tools (if any) of his trade and the necessary wearing apparel, bedding, cooking vessels, and furniture of himself, his wife and children, to a value, inclusive of tools and apparel and other necessities as aforesaid, not exceeding three hundred rupees in the whole.

(2) Subject as aforesaid, the property of the insolvent shall comprise the following particulars, namely :—

(a) all such property as may belong to or be vested in the insolvent at the commencement of the insolvency or may be acquired by or devolve on him before his discharge ;

(b) the capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the insolvent for his own benefit at the commencement of his insolvency or before his discharge ;

(c) all goods being at the commencement of the insolvency in the possession, order or disposition of the insolvent, in his trade or business by the consent and permission of the true owner under such circumstances that he is the reputed owner thereof :

Provided that things in action other than debts due or growing due to the insolvent in the course of his trade or business shall not be deemed goods within the meaning of clause (c) :

Provided also that the true owner of any goods which have become divisible among the creditors of the insolvent under the provisions of clause (c) may prove for the value of such goods."

STATEMENT OF OBJECTS AND REASONS

As a result of the decisions of the Privy Council in *Sat Narain vs. Behari Lal* (I.L.R. 6 Lah. 1) and *Sat Narain vs. Sri Kishen Das, Same vs. Bank of Upper India* (I.L.R. 17 Lah. 644) the right of a Hindu father to sell family property to discharge family debts and his son's interests therein to discharge his personal debts lawfully incurred cannot be deemed to be property within the meaning of section 2 (e) or of section 17 of the Presidency-towns Insolvency Act, 1909 (III of 1909), and therefore does not devolve upon the Official Assignee under section 17 of the Act. The Judicial Committee held, however, that the power of the father to sell his son's property to discharge his own lawful debts does devolve upon the Official Assignee by reason of section 52 (2) (b) of the Act.

2. While the Provincial Insolvency Act contains in sections 2 (d) and 28 (2) provisions identical with those embodied in sections 2 (e) and 17 of the Presidency-towns Insolvency Act, there is in the Provincial Insolvency Act, 1920 (V of 1920), no provision corresponding to section 52 of the Presidency-towns Insolvency Act. In consequence a conflict of opinion has arisen among the High Courts as to whether, in the case of an adjudication under the Provincial Insolvency Act, the power of the father to sell his son's interests in the family estate to meet his own legitimate debts devolves upon the Official Receiver as it does under the Presidency-towns Insolvency Act.

3. In the course of a Full Bench decision reported in I. L. R. 1943 Madras 83 the Madras High Court suggested that Central legislation should be promoted to bring the Provincial Insolvency Act into line with the Presidency-towns Insolvency Act in the relevant respect. The Government of India, who postponed consideration of the matter pending the termination of the war, have now consulted Provincial Governments and High Courts on this suggestion which has received virtually unanimous support and to which effect is given by this Bill.

J. N. MANDAL.

NEW DELHI ;

The 8th February, 1947.

The following Bill* was introduced in the Legislative Assembly on the 17th March, 1947:—

L. A. BILL No. 34 OF 1947

A Bill further to amend the Legal Practitioners Act, 1879, and the Indian Bar Councils Act, 1926.

WHEREAS it is expedient further to amend the Legal Practitioners Act, 1879, and the Indian Bar Councils Act, 1926, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Legal Practitioners and Bar Councils (Amendment) Act, 1947. Short title and extent.

(2) It extends to the whole of British India.

2. In section 12 of the Legal Practitioners Act, 1879, for the words "implying a defect of character which unfits him to be a pleader or mukhtar, as the case may be" the words "involving moral turpitude" shall be substituted. Amendment of section 12, Act XVIII of 1879

3. In section 21 of the Legal Practitioners Act, 1879, for the words "implying a defect of character which unfits him to be a revenue-agent" the words "involving moral turpitude" shall be substituted. Amendment of section 21, Act XVIII of 1879

4. For section 10 of the Indian Bar Councils Act, 1926, the following section shall be substituted, namely:— Substitution of new section for section 10, Act XXXVIII of 1926

"10. (1) The High Court may, in the manner hereinafter provided, suspend or remove from practice any advocate of the High Court whom it finds guilty of professional misconduct or who is convicted of any criminal offence involving moral turpitude. Punishment of advocate for misconduct.

(2) Upon receipt of a complaint made to it by any Court or by the Bar Council or by any other person that any such advocate has been guilty or convicted as aforesaid, the High Court shall, if it does not summarily reject the complaint, refer the case for inquiry either to the Bar Council or, after consultation with the Bar Council, to the Court of a District Judge (hereinafter referred to as a District Court) and may of its own motion so refer any case in which it has otherwise reason to believe that any such advocate has been so guilty or convicted."

5. In any inquiry or other proceeding under either of the hereinafore mentioned Acts which is pending on the date of the commencement of this Act and in pursuance of which any advocate, pleader, mukhtar or revenue-agent is liable to reprimand, suspension, dismissal or removal from practice, regard shall be had to the amendments of those Acts effected by this Act. Application of this Act to pending proceedings

6. If, before the date of the commencement of this Act,— Review of past

(a) any advocate has, for reasons other than professional misconduct, been removed from practice under the Indian Bar Councils Act, 1926, or been suspended under that Act and such suspension is subsisting on the said date, or disciplinary action

(b) any pleader, mukhtar or revenue-agent has been dismissed under section 12 or section 21 of the Legal Practitioners Act, 1879, or suspended thereunder and such suspension is subsisting on the said date,— XXXVIII of 1926

* The Governor General has been pleased to give the previous sanction required by the proviso to sub-section (2) of section 107 of the Government of India Act, 1935, to the introduction in the Legislative Assembly of this Bill.

he may, within six months from the said date, make an application in writing under this section to the High Court or Chief Controlling Revenue-authority which passed the order of removal, dismissal or suspension, as the case may be, and the said High Court or Chief Controlling Revenue-authority shall on such application review the said order, having regard in so doing to the relevant provisions of the aforesaid Acts as if the amendments made by this Act had been in force when the order was passed, and shall on such review pass such order as it considers proper :

Provided that where the application relates to an order passed under section 10 of the Indian Bar Councils Act, 1926, the High Court may, if it thinks fit, before reviewing the order under this section, refer the case for inquiry under sub-section (2) of that section.

STATEMENT OF OBJECTS AND REASONS

The question of amending the Legal Practitioners Act, 1879 and the Indian Bar Councils Act, 1926, so as to preclude disciplinary action against a legal practitioner on the basis of a conviction for what is commonly called a political offence has been much agitated and a private Bill on the subject has been introduced in the Legislative Assembly. Government have considered the question and have reached the conclusion that the criterion for deciding whether a conviction should attract a liability to disciplinary proceedings should be whether the offence for which the legal practitioner has been convicted involved moral turpitude. The Bill, therefore, precludes disciplinary action on the basis of an offence not involving moral turpitude and provides for the review of existing orders of dismissal, removal from practice and suspension which are found to have been based on a conviction for an offence not involving moral turpitude.

NEW DELHI ;

J. N. MANDAL.

The 11th February, 1947.

The following Bill* was introduced in the Legislative Assembly on the 19th March, 1947:—

L. A. BILL NO. 35 OF 1947

A Bill to enable effect to be given to certain provisions of the Charter of the United Nations.

WHEREAS it is expedient to enable effect to be given to certain provisions of the Charter of the United Nations ;

It is hereby enacted as follows :—

1. (1) This Act may be called the United Nations (Security Council) Act, 1947.

(2) It extends to the whole of British India, and applies also—

(a) to British subjects and servants of the Crown in any part of India, and

(b) to British subjects who are domiciled in any part of India, wherever they may be, and

(c) to, and to persons on, ships and aircraft registered in British India, wherever they may be.

* The Governor General has been pleased to give the previous sanction required by clause (c) of sub-section (1) of section 108, read with clause (a) of sub-section (4) of section 313 of the Government of India Act, 1935, to the introduction in the Legislative Assembly of this Bill.

2. If, under Article 41 of the Charter of the United Nations signed at San Francisco on the 26th day of June 1945, the Security Council of the United Nations calls upon the Central Government to apply any measures, not involving the use of armed force, to give effect to any decision of that Council, the Central Government may, by order published in the official Gazette, make such provisions as appear to it necessary or expedient for enabling those measures to be effectively applied, and without prejudice to the generality of the foregoing power, provision may be made for the punishment of persons offending against the order.

Measures under Art. 41 of the Charter of the United Nations.

STATEMENT OF OBJECTS AND REASONS

Article 41 of the Charter of the United Nations which has been ratified by the Government of India reads as follows :—

“ The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio and other means of communication, and the severance of diplomatic relations ”.

The purpose of this Bill is to enable the Government of India to apply effectively the measures which the Security Council may call upon it to put into force.

NEW DELHI ;

JAWAHARLAL NEHRU.

The 21st February, 1947

The following Bill* was introduced in the Legislative Assembly on the 19th March, 1947 :—

L. A. BILL NO. 36 OF 1947

A Bill to give effect to the Convention on the Privileges and Immunities of the United Nations

WHEREAS it is expedient to give effect to the Convention on the Privileges and Immunities of the United Nations, and to enable similar privileges and immunities to be enjoyed by other international organisations and their representatives and officials ;

It is hereby enacted as follows :—

1. (1) This Act may be called the United Nations (Privileges and Immunities) Act, 1947.

Short title and extent.

(2) It extends to the whole of British India.

2. (1) Notwithstanding anything to the contrary contained in any other law, the provisions set out in the Schedule to this Act of the Convention on the Privileges and Immunities, adopted by the General Assembly of the United Nations on the 13th day of February 1946, shall have the force of law in British India.

Conferment on United Nations and its representatives and officers of certain privileges and immunities.

(2) The Central Government may, from time to time, by notification in the official Gazette, amend the Schedule in conformity with any amendments, duly made and adopted, of the provisions of the said Convention set out therein.

*The Governor General has been pleased to give the previous sanction required by clause (c) of sub-section (1) of section 108, read with clause (a) of sub-section (4) of section 313, of the Government of India Act, 1935, the introduction in the Legislative Assembly of this Bill

Power to confer certain privileges and immunities on other international organisations and their representatives and officers.

3. Where in pursuance of any international agreement or convention it is necessary to accord to any international organisation and its representatives and officers privileges and immunities in British India similar to those contained in the provisions set out in the Schedule, the Central Government may, by notification in the official Gazette, declare that the provisions set out in the Schedule shall, subject to such modifications, if any, as it may consider necessary or expedient for giving effect to the said agreement or convention, apply *mutatis mutandis* to the international organisation specified in the notification and its representatives and officers, and thereupon the said provisions shall apply accordingly and, notwithstanding anything to the contrary contained in any other law, shall in such application have the force of law in British India.

Power to make rules.

4. The Central Government may make rules for carrying out the purposes of this Act.

THE SCHEDULE

(See sections 2 and 3)

ARTICLE I

JURIDICAL PERSONALITY

SECTION 1. The United Nations shall possess juridical personality.

It shall have the capacity :

- (a) to contract ;
- (b) to acquire and dispose of immovable and movable property ;
- (c) to institute legal proceedings.

ARTICLE II

PROPERTY, FUNDS AND ASSETS

SECTION 2. The United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to an measure of execution.

SECTION 3. The premises of the United Nations shall be inviolable. The property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

SECTION 4. The archives of the United Nations, and in general all documents belonging to it or held by it, shall be inviolable wherever located.

SECTION 5. Without being restricted by financial controls, regulations or moratoria of any kind,

- (a) the United Nations may hold funds, gold or currency of any kind and operate accounts in any currency ;

- (b) the United Nations shall be free to transfer its funds, gold or currency from one country to another or within any country and to convert any currency held by it into any other currency.

SECTION 6. In exercising its rights under Section 5 above, the United Nations shall pay due regard to any representations made by the Government of any Member insofar as it is considered that effect can be given to such representations without detriment to the interests of the United Nations.

SECTION 7. The United Nations, its assets, income and other property shall be :

- (a) exempt from all direct taxes ; it is understood, however, that the United Nations will not claim exemption from taxes which are, in fact, no more than charges for public utility services ;
- (b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the United Nations for its official use. It is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed with the Government of that country ;
- (c) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

SECTION 8. While the United Nations will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the United Nations is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Members will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE III

FACILITIES IN RESPECT OF COMMUNICATIONS

SECTION 9. The United Nations shall enjoy in the territory of each Member for its official communications treatment not less favourable than that accorded by the Government of that Member to any other Government including its diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications ; and press rates for information to the press and radio. No censorship shall be applied to the official correspondence and other official communications of the United Nations.

SECTION 10. The United Nations shall have the right to use codes and to despatch and receive its correspondence by courier or in bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

ARTICLE IV

THE REPRESENTATIVES OF MEMBERS

SECTION 11. Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, shall, while exercising their functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities :

- (a) immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their capacity as representatives, immunity from legal process of every kind ;
- (b) inviolability for all papers and documents ;
- (c) the right to use codes and to receive papers or correspondence by courier or in sealed bags ;
- (d) exemption in respect of themselves and their spouses from immigration restrictions, aliens registration or national service obligations in the state they are visiting or through which they are passing in the exercise of their functions ;
- (e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions ;
- (f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys ; and also
- (g) such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic envoys enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes.

SECTION 12. In order to secure, for the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer the representatives of Members.

SECTION 13. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations are present in a state for the discharge of their duties shall not be considered as periods of residence.

SECTION 14. Privileges and immunities are accorded to the representatives of Members not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the United Nations. Consequently a Member not only has the right but is under a duty to waive the immunity of its representative in any case where in the opinion of the Member the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

SECTION 15. The provisions of Sections 11, 12 and 13 are not applicable as between a representative and the authorities of the state of which he is a national or of which he is or has been the representative.

SECTION 16. In this article the expression "representatives" shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations.

ARTICLE V

OFFICIALS

SECTION 17. The Secretary-General will specify the categories of officials to which the provisions of this Article and Article VII shall apply. He shall submit these categories to the General Assembly. Thereafter these categories shall be communicated to the Governments of all Members. The names of the officials included in these categories shall from time to time be made known to the Governments of Members.

SECTION 18. Officials of the United Nations shall :

- (a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity ;
- (b) be exempt from taxation on the salaries and emoluments paid to them by the United Nations ;
- (c) be immune from national service obligations ;
- (d) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration ;
- (e) be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned ;
- (f) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys ;
- (g) have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question.

SECTION 19. In addition to the immunities and privileges specified in Section 18, the Secretary-General and all Assistant Secretaries-General shall be accorded in respect of themselves, their spouses and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

SECTION 20. Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. In the case of the Secretary-General, the Security Council shall have the right to waive immunity.

SECTION 21. The United Nations shall co-operate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Article.

ARTICLE VI

EXPERTS ON MISSIONS FOR THE UNITED NATIONS

SECTION 22. Experts (other than officials coming within the scope of Article V) performing missions for the United Nations shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions. In particular they shall be accorded:

- (a) immunity from personal arrest or detention and from seizure of their personal baggage ;
- (b) in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind. This immunity from legal process shall continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for the United Nations ;
- (c) inviolability for all papers and documents ;
- (d) for the purpose of their communications with the United Nations, the right to use codes and to receive papers or correspondence by courier or in sealed bags ;
- (e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions ;
- (f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

SECTION 23. Privileges and immunities are granted to experts in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any expert in any case where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the United Nations.

ARTICLE VII

UNITED NATIONS LAISSEZ-PASSER

SECTION 24. The United Nations may issue United Nations laissez-passers to its officials. These laissez-passers shall be recognized and accepted as valid travel documents by the authorities of Members, taking into account the provisions of Section 25.

SECTION 25. Applications for visas (where required) from the holders of United Nations laissez-passers, when accompanied by a certificate that they are travelling on the business of the United Nations, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

SECTION 26. Similar facilities to those specified in section 25 shall be accorded to experts and other persons who, though not the holders of United Nations laissez-passer, have a certificate that they are travelling on the business of the United Nations :

SECTION 27. The Secretary-General, Assistant Secretaries-General and Directors travelling on United Nations laissez-passer on the business of the United Nations shall be granted the same facilities as are accorded to diplomatic envoys.

SECTION 28. The provisions of this article may be applied to the comparable officials of specialized agencies if the agreements for relationship made under Article 63 of the Charter so provide.

ARTICLE VIII

SETTLEMENT OF DISPUTES

SECTION 29. The United Nations shall make provisions for appropriate modes of settlement of :

- (a) disputes arising out of contracts or other disputes of a private law character to which the United Nations is a party ;
- (b) disputes involving any official of the United Nations who by reason of his official position enjoys immunity, if immunity has not been waived by the Secretary-General.

SECTION 30. All differences arising out of the interpretation or application of the present convention shall be referred to the International Court of Justice, unless in any case it is agreed by the parties to have recourse to another mode of settlement. If a difference arises between the United Nations on the one hand and a Member on other hand, a request shall be made for an advisory opinion on any legal question involved in accordance with Article 96 of the Charter and Article 65 of the Statute of the Court. The opinion given by the Court shall be accepted as decisive by the parties.

STATEMENT OF OBJECTS AND REASONS

Articles 104 and 105 of the Charter of the United Nations which has been ratified by the Government of India read as follows :—

ARTICLE 104

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

ARTICLE 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

2 In pursuance of paragraph 3 of Article 103, the "Convention on the Privileges and Immunities of the United Nations" was adopted by the General Assembly on 13th February 1946 and all members have been asked to accede to it. The accession will be effected by the deposit of an instrument of accession as soon as a member country is in a position under its own law to give effect to the terms of the Convention.

3. The purpose of this Bill, which in a Schedule incorporates most of the Convention, is to enable the provisions of the Convention to be operative in this country.

4. The Organizations referred to in clause 3 of the Bill will be those like the United Nations Educational, Scientific and Cultural Organization and the International Civil Aviation Organization.

JAWAHARLAL NEHRU.

NEW DELHI ;

The 21st February, 1947.

M. N. KAUL,

Secy. to the Govt. of India.